

No. SC92851

IN THE SUPREME COURT OF MISSOURI

HUMANE SOCIETY OF THE UNITED STATES, et al.,

Plaintiffs-Petitioners

v.

STATE OF MISSOURI, et al.,

Defendants-Respondents.

**Appeal from the Circuit Court of Cole County, Missouri
Case No. 11AC-CC00300**

**BRIEF OF AMICUS CURIAE EXCELSIOR SPRINGS FRIENDS OF ANIMALS,
AUTUMN ACRES ANIMAL RESCUE, FIVE ACRES ANIMAL SHELTER**

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JURISDICTIONAL STATEMENT, STANDARD OF REVIEW, AND
STATEMENT OF FACTS

Amicus Curiae Excelsior Springs Friends of Animals, Autumn Acres Animal Rescue, and Five Acres Animal Shelter file this Brief pursuant to Missouri Supreme Court Rule 84.05(f)(2). Excelsior Springs Friends of Animals, Autumn Acres Animal Rescue, and Five Acres Animal Shelter have received consent from Petitioners and Respondents to file a brief in this matter. This amicus curiae brief adopts the jurisdictional statement, standard of review, and statement of facts contained in the brief of Petitioners as its jurisdictional statement, standard of review, and statement of facts.

INTEREST OF AMICUS CURIAE

The Excelsior Springs Friends of Animals, Autumn Acres Animal Rescue and Five Acres Animal Shelter as *amicus curiae*, respectfully submit this brief pursuant to Missouri Supreme Court Rule 84.05(f)(2). Excelsior Springs Friends of Animals (“ESFA”), is a foster home based center devoted to rescuing abused, abandoned, neglected or animals in danger of euthanasia in the northeast Missouri area and nearby central Kansas City, Missouri. Autumn Acres Animal Rescue (“Animal Acres”) is an all breed rescue shelter in Richmond, Missouri, specializing in pets suffering from behavioral or medical issues. Animal Acres provides lifesaving care and treatment to abandoned and neglected pets throughout the state. Five Acres Animal Shelter (“FAAS”) serves the St. Charles, Missouri area by placing animals in need into permanent, safe homes.

All of the *amicus curiae* shelters are 501(c)(3) not for profit, state licensed, no kill, animal rescue and adoption center facilities. All of the shelters are adversely affected by the undue financial burden caused by removal of the license fee exemption for animal shelters.

Prior to the enactment of Senate bill 795 (“SB 795”), animal shelters were exempt from the license fee required to obtain a license to operate an animal shelter under Section 273.327, RSMo. ESFA, Autumn Acres and FAAS were exempt from operational licensing fees. The Department of Agriculture administers the Animal Care Facilities Act, Section 273.327, RSMo. The Animal Care Facilities Act ensures shelters meet state standards regarding food, water, veterinary care, building maintenance, socialization,

identification and recordkeeping requirements. All three shelters are licensed and compliant with Section 273.327. Shelters such as ESFA are vital in providing environmental safety, protection from illegal neglect and cruelty, and education in care for animals throughout the state. The financial strains the licensing fees place on these shelters are debilitating and limit the unique and valuable services they provide to the State of Missouri.

ESFA provides community support, disaster relief and financial assistance to animal owners and caregivers in Missouri and the nation. Founded in 2006, ESFA has rescued and re-homed hundreds of pets and assisted thousands of others in need. Adoption fees ranging from \$175.00 to \$275.00 do not cover the financial demands of running the shelter. ESFA reaches out to adoptive families throughout the United States. ESFA relies heavily on prescreened, supervised foster care volunteers to house animals in need. ESFA is a Purina Pro Plan Rescue Ambassador playing a crucial role in animal disaster relief. ESFA plays a proactive role in assisting owners in need of food, veterinary care or education in an effort to reduce the number of animals in need of the shelter.

While ESFA holds fundraisers and reaches out for private donations, the day-to-day operations run on a narrow budget. Since the loss of the statutory exemption to licensing fees and due to an area increase in need, ESFA must refuse animals on a space available basis. As of the filing of this brief, ESFA cannot accept additional animals in need. This organization struggles daily under the financial burdens of existing as a not for profit animal shelter in Missouri.

Autumn Acres Animal Rescue serves the greater Richmond, Missouri area since 2004. Autumn Acres will accept dogs facing euthanasia from nearby animal control centers. Autumn Acres specializes in rehabilitating dogs with behavioral and medical concerns. This specialization saves the lives of animals previously thought of as helpless. They use social media to educate the public and request volunteers. The expertise offered by dog behaviorists and exceptional veterinary care save the lives of pets, serve the needs of pet owners and increase the safety in the community.

Autumn Acres' financial constraints require limited access to their facility. They seek donations from the surrounding community, businesses and private citizens. Veterinary services include vaccinations protecting the pet and the community as well as preventative pest infestation treatment. The shelter provides education on the proper medical care of an individual pet, and the broader dangers of puppy mills and illegal breeders. Autumn Acres survives through volunteers, donations and adoption fees.

The mission of Five Acres Animal Shelter ("FAAS") is to end pet homelessness, promote responsible pet ownership, and advocate for animal welfare in the greater St. Charles, Missouri area. FAAS accepts animals from private citizens who are unable to care for their pets. The shelter works to transfer animals from overcrowded shelters to save companion animals scheduled for euthanasia. In 2010 FAAS placed 554 animals in permanent homes.

FAAS relies on local veterinarians to lower the high cost of medical care. The shelter survives on private donations, small corporate support, fundraising events and

grants. Volunteers foster the animals in need. FAAS is growing and is building a new facility. The shelter's financial need is particularly great at this time.

These small-scale and financially struggling shelters must spend their scarce resources on the licensing fee at the cost of the care of animals and the contribution to the community. These shelters face the possibility of closure on a daily basis due to the financial burden. For the reasons set forth below, the *amicus curiae*, implore this Honorable Court to find SB 795 unconstitutional.

ARGUMENT

I. The Trial Court erred in denying Petitioners’ request for declaratory judgment because the passage of Senate Bill 795 created a constitutional defect in § 273.327 RSMo, in that the legislative process violated the original purpose clause of Article III, Section 21 of the Missouri Constitution

On January 19, 2010, Senate Bill 795 (“SB 795”) was introduced and read in the Missouri Senate for the first time. L.F. at 162. It was entitled “AN ACT To repeal section 319.306, RSMo, and to enact in lieu thereof one new section relating to blasting safety, with a penalty provision.” Id. As introduced, SB 795 sought to amend § 319.306 of the Missouri Blasting Safety Act so that “[i]ndividuals using explosive materials along with a well screen cleaning device for the purpose of unblocking clogged screens of agricultural irrigation wells” did not need to secure a blaster’s license. Id. As Perfected by the Senate on February 23, 2010, SB 795 was entitled “AN ACT To repeal sections 319.306 and 319.321, RSMo, and to enact in lieu thereof two new sections relating to blasting safety, with a penalty provision.” Id. The amendments effectively limited the exemption from licensing to apply only to blasting that occurred “within the southeast Missouri regional water district as created in section 256.643.” L.F. at 34.

The bill was then sent to the House of Representatives, where a substitute bill was passed for SB 795 on April 13, 2010. L.F. at 163. It was read a third time then sent back to the Senate. Id. As amended, the newest version of SB 795 sought to repeal thirteen sections and “to enact in lieu thereof fifty-seven new sections relating to *animals and agriculture*, with penalty provisions” (*emphasis added*). Id. The amended bill included

the removal of animal shelters' exemption from payment of the license fee for the first time. Id.

On May 14, 2010, the 95th General Assembly truly agreed to and finally passed SB 795, titled "AN ACT To repeal sections 196.316, 266.355, 270.260, 270.400, 273.327, 273.329, 274.180, 281.260, 311.550, 319.306, 319.321, 393.1025, and 393.1030, RSMo, and to enact in lieu thereof thirty new sections relating to animals and agriculture, with penalty provisions, and an emergency clause for a certain section." L.F. at 78, 130, 163. On July 9, 2010, Governor Jeremiah W. Nixon signed SB 795 into law. L.F. at 130. On April 27, 2011, the 96th General Assembly truly agreed to and finally passed, and Governor Nixon signed into law, Senate Bill 161 ("SB 161"). L.F. at 130, 131. SB 161 repealed and reenacted Section 273.327, RSMo, increasing the maximum license fee for entities requiring licensing from \$500 to \$2,500. L.F. at 177, 178.

Article III, Section 21 prohibits any bill from being "so *amended* in its passage through either house as to change its original purpose" (*emphasis added*). The original purpose of a bill must be measured at the time of the bill's introduction. Missouri Ass'n of Club Executives, 208 S.W.3d 885, 888 (Mo. banc 2006). The limitation restricts "the introduction of a matter that is not germane to the object of the legislation or that is unrelated to its original subject." Legends Bank, et al., v. State of Missouri, et al., 361 S.W.3d 383, 386 (Mo. banc 2012). "Germane" is defined as: "in close relationship, appropriate, relative, pertinent. Relevant or closely allied." C.C. Dillon v. City of Eureka, 12 S.W.3d 322, 327 (Mo. banc 2000) (citing Black's Law Dictionary (6th ed.)).

In its most recent decision addressing the original purpose constitutional

challenge, the Missouri Supreme Court in Legends set out a two-part framework. First, the original purpose of the bill must be identified; to do this the Court looks at the general purpose of bill's earliest title and contents. Legends, 361 S.W.3d at 386. According to the Court, the next step is to compare the final bill with the original version of the bill to test for compliance with Article III, Section 21. Id.

Before proceeding to step one in the instant case, it is important to note here the distinction between "subject" and "purpose." "Subject" is "something that forms a basis (as for action, study, [or] discussion)." Webster's Third New International Dictionary 1847 (1981). On the other hand, "purpose" is "an end or aim" or "an object, effect or result aimed at [or] intended." Id.

The history of the Missouri Constitution reflects the distinction between "subject" and "purpose." In 1865, Missouri adopted Article III, Section 23, stating "No bill shall contain more than one subject which shall be clearly expressed in its title..." Martha J. Dragich, State Constitutional Restrictions on Legislative Procedure: Rethinking the Analysis of Original Purpose, Single Subject, and Clear Title Challenges, 38 Harv. J. on Legis. 103, 116. Ten years later, Article III, Section 21 was adopted, and should be understood to have separate meaning and effect. Id. A bill's "subject" is the area that it addresses; a bill's "purpose" is specifically what that legislation seeks to do within the defined subject area. Id. Properly conceived, a bill's purpose should be narrower in generality than the bill's subject.

In analyzing Article III, Section 23 challenges, the Court is tasked with determining the bill's *subject*, as opposed to analyzing the *purpose* in the instant case. In

the past, the Court has conducted the same analysis for single subject challenges as for original purpose challenges. For instance, the Court recently found in Dillon that the statute's purpose was "transportation." 12 S.W.3d at 328. However, that is more accurately characterized as a subject because "transportation" is the topic about which the bill was written; "transportation" is not "an end or aim." Dillon's argument that the challenged legislation "pertained only to transportation" was doomed from the start because the bill's original purpose was not properly characterized. Id. at 327. What a bill "pertains to" is necessarily the *subject* of the bill, what a bill aims to accomplish is its *purpose*. See Dragich, State Constitutional Restrictions at 116 ("A bill's *purpose* is to achieve some end or result with respect to its subject) (*emphasis* in the original).

To conflate a bill's purpose with its broader subject effectively grants the legislature an undue amount of deference on the issue of original purpose challenges. Rather than restricting amendments to the bill's original aim, as required by Article III, Section 21, the legislature is allowed to amend bills so long as they "pertain" to the *subject* matter addressed. This effectively renders the requirement that amendments be "germane" to the original *purpose* toothless.

Furthermore, the appropriate level of generality must be employed when identifying a bill's original purpose. Id. at 117. When determining the appropriate level of generality at which to characterize a bill's original purpose, the language of the bill's earliest title and contents binds the Court. The Missouri Constitution does not require a certain level of specificity in the bill's original purpose; it merely demands that any subsequent amendments be germane to the original purpose of the bill as determined

when it was introduced. Therefore, the appropriate starting point is the level of specificity of the language used by the drafters of the bill in its earliest title and contents.

The bill's subject was undoubtedly blasting safety. Its purpose was more limited: to amend a *single statute* in order to revise the licensing requirements of blasting in agricultural irrigation wells. The bill's title when introduced cited one statute, § 319.306, RSMo, and sought "to enact in lieu thereof *one* new section relating to *blasting safety*." L.F. at 17 (*emphasis added*). The contents introduced a three-line substantive change to a single statute regarding the requirement of a license when blasting in agricultural irrigation wells.

Having completed step one, the analysis now proceeds to step two. Unfortunately, step two as outlined in Legends is, with respect, somewhat misguided. The current framework requires the Court to look at the bill that was ultimately passed and compare it to the bill's original purpose. However, this analysis does not sufficiently capture the language and nature of Article III, Section 21. Recall the language that no bill shall be "*amended*" so as to change its original purpose. The restriction in Article III, Section 21 is not on the substantive bill that is finally passed; it is instead focused on the *process* used to pass the bill.

Looking to the amendment process in the instant case, it immediately becomes clear that SB 795 violated Article III, Section 21 of the Missouri Constitution. From the bill's introduction through the first amendment during Perfection, the bill's purpose remained about addressing the licensing requirements of blasting safety. As amended by the House of Representatives, however, the purpose or aim of the bill was to address

animals and agriculture. Once SB 795 was amended from a bill whose general purpose was *blasting safety* license requirements to one addressing *animals* and *agriculture*, its general purpose changed. Of course, the object of Article III, Section 21 is not to prevent changes to a bill, but rather to prevent those that are not germane to the bill's original purpose. Whether the changes are "germane" is the test for compliance with Article III, Section 21.

There is little doubt that an amendment to address animals and agriculture is not "closely allied" or "in close relationship" with a bill seeking to amend a single statute regarding blasting safety. The first amendment to SB 795, which input the restriction about southeast Missouri, was certainly "closely allied" to the bill's original purpose to amend a statute relating to blasting safety. However, once the bill transmogrified from seeking to amend two statutes about blasting safety to seeking to repeal thirteen statutes and enact fifty-seven new provisions relating to animals and agriculture, the bill no longer stayed true to its original purpose. At the point when SB 795 was amended to include these constitutionally offending provisions, SB 795 violated the Missouri Constitution. There is no need to look to the final version of the bill during this original purpose challenge, because Article III, Section 21 seeks to protect the amendment process itself.

Respondents state "S.B. 795 as originally introduced included an exemption for agriculture purposes to the Missouri Blasting Safety Act." L.F. at 226. That is a generous, albeit plausible, characterization of the bill. However, this characterization risks being overly general and devolving into a recitation of the bill's subject rather than

its original purpose. Assuming, *arguendo*, that this is a properly general characterization of the bill's original purpose, the amendment by the House of Representatives to repeal thirteen statutes and enact fifty-seven new statutes regarding animals and agriculture simply defies characterization as "closely allied" with an "exemption for agricultural purposes to the Missouri Blasting Safety Act." The bare fact that the *subject* of agriculture is present in both versions does nothing to rehabilitate the fact that the new bill was no longer germane to the original purpose. Despite the verbal calisthenics by Respondents, the amendment that removed the exemption from licensing fees for animal shelters is simply not closely allied to Respondents' own formulation of the bill's original purpose – exemptions for agricultural purposes to the Missouri Blasting Safety Act.

II. The Trial Court erred in finding that Petitioners' cause was moot because an actual controversy still exists, in that the repeal and reenactment of Section 273.327, RSMo, through SB 161 did not eliminate the constitutional defect

Assuming, *arguendo*, that the Court finds SB 795 violated Article III, Section 21 of the Missouri Constitution, the Court still must decide whether the issue was mooted by the passage of SB 161. SB 161 was passed one year after SB 795 and, in part, repealed and reenacted § 273.327 RSMo (in addition to increasing the licensing fee to \$2,500). Simply put, the issue is whether a constitutional defect in the procedure of a prior bill, which is passed and signed into law, can be cured by a subsequent repeal and reenactment of the statute. On this particular issue, the Court faces seemingly diametrically opposed precedent.

On one hand, the court in C.C. Dillon stated that “[t]he repeal of a law means its complete abrogation by the enactment of a subsequent statute.” Dillon at 322 (quoting State ex rel. Peebles v. Moore, 99 S.W.2d 17, 19 (1936)). The court concluded that once the legislature repealed “former” section 71.288, its basis for deciding the constitutionality of that statute evaporated. Id. This conclusion was the basis for the trial court’s finding in the instant case that the issue was moot. L.F. at 270.

On the other hand, the principle that “[a] subsequent act of the Legislature repealing and re-enacting, at the same time, a pre-existing statute, is but a continuation of the latter, and the law dates from the passage of the first statute and not the latter” has stood firm for over a century. State v. Ward, 40 S.W.2d 1074, 1078 (Mo. 1931) (citing State ex rel. Hawes v. Mason, 54 S.W. 524 (Mo. 1899)). This principle remains true even in the case where the later statute contains modifications of the repealed sections.

Admittedly, neither rule statement applies perfectly to the instant case regarding the survival of constitutional defects. However, by looking at the logic of each formulation, and taking into account the principles and purposes of Article III, Section 21, it becomes clear that a subsequent repeal and reenactment must not be considered to abrogate the prior statute and cure the constitutional defect.

Amicus curiae ask the Court to indulge a brief hypothetical to illustrate the point. Suppose a statute in effect criminalizes spray-painting sidewalks. While the statute is in effect, Picasso is caught spray-painting a sidewalk. However, before Picasso is charged the legislature passes a bill that amends the statute to criminalize using paintbrushes too. As is custom, the bill repeals and reenacts the statute in question. If the repeal and

reenactment is treated as a total abrogation of the prior statute, then this is where the problems arise.

Theoretically, there are two statutes that purport to regulate the conduct in question – spray-painting sidewalks. However, Picasso can no longer be charged under the former statute because it has been completely abrogated by the repeal and reenactment. Picasso cannot be charged under the “new” statute because it was not in existence at the time of his conduct; any charges would violate the principles of Ex Post Facto. Therefore, this repeal and reenactment as abrogation prevents the application of either of the two statutes which otherwise apply.

Now consider the alternative. Suppose that the repeal and reenactment were *not* treated as a total abrogation of the former statute, but merely continued its enforcement. Since the conduct is regulated by both “versions” of the statute, Picasso may be charged despite the repeal and reenactment. Had Picasso used a paintbrush, however, he could not be charged under either – the violation would have preceded the criminalization. A state in which a simple parliamentary procedure such as repeal and reenactment single-handedly defines the application and enforcement of laws is troublesome. This is the type of situation that could arise were the Court to treat the repeal and reenactment as a total abrogation. Despite Respondents’ claim that Petitioners’ position would lead to “an absurd result,” the opposite is clearly true. L.F. at 219, 220.

Furthermore, the scenario in which the repeal and reenactment treats the statute as continuously in force comports with legislative intent. It is self-evident that the legislature intended for all the unaltered portions of the statute to remain in effect – that is

why they were untouched. The legislature desired to amend a certain provision *within* the larger, continued enforcement of the statute – that is, continued enforcement was a premise to the act of amendment in the first place. Thus, repeal and reenactment as continuous existence of the law reflects the legislature’s intent to keep the identical provisions of the statute in effect, while adding the amended portions, to take effect following passage.

Respondents concede that a simple repeal and reenactment of a substantively unconstitutional statute would not cure the constitutional deficiency. L.F. at 221, 222 FN2. However, Respondents put forward no argument as to why a statute with an inherent procedural constitutional deficiency should be treated differently. In fact, the logic of the argument, and a brief glimpse at the notion of severance, suggest that they should be treated the same.

In Hammerschmidt v. Boone County, while discussing the remedy of severance, the court implied that when “the procedure by which the legislature enacted a bill violates the Constitution,” the entire enactment might be tainted. 877 S.W.2d 98, 103-04 (Mo. 1994). Although the issue of severance is distinct from the present topic, the logic holds here. Article III, Section 21 prohibits the legislature from amending any bill to change its original purpose. The act of amendment that violates this provision immediately and automatically invalidates the entire bill. This is because, once the violation occurs, any further act on that bill is necessarily illegitimate. An unconstitutional change in the bill’s original purpose irrevocably affects the entire bill.

The ultimate goal of Article III, Section 21 is to fairly apprise legislators and the

public about the contents of a bill in the House or Senate. See Missouri Ass'n of Club Executives v. State, 208 S.W.3d 885, 888 (Mo. banc 2006) (“Section[] 21 ... serve[s] to keep individual members of the legislature and the public fairly apprised of the subject matter of pending laws”). Were the legislature to be allowed to cure the procedural constitutional violations of any bill by a simple repeal and reenactment, there would be no external motivation to follow the provisions of the Missouri Constitution. A procedurally unconstitutional bill could be passed without giving the public fair notice of its contents, and then its legitimate and constitutional status could be legislated into existence by the very same legislature that passed the constitutionally deficient bill. To treat a repeal and reenactment as a total abrogation of any prior constitutional defects would give the power of constitutional purification to the very body that passed the offending bill. It would instantaneously dissolve the checks and balances of the legislative process that the provisions of the Missouri Constitution demand. This Court’s exclusive power to hear issues of statutory constitutionality would essentially vanish.

Respondents raise concerns that not allowing the process of repeal and reenactment to cure procedural constitutional violations would lead to an absurd result. L.F. at 219, 220, 222. To illustrate the absurdity, Respondents pose a hypothetical scenario under which the General Assembly passes a statute that “it *knows* to contain an unconstitutional, procedural defect.” L.F. at 222 (*emphasis* in original). Respondents further worry that the legislature will be unable to repeal and reenact legislation until the one-year statute of limitations has expired on constitutional challenges to the previous session’s legislation. L.F. at 221. Respondents’ hypothetical and concerns are

misguided.

Setting aside the implausibility of the hypothetical, it is highly unlikely that the General Assembly would pass a bill that it *knows* has a procedural unconstitutional defect. Additionally, the General Assembly should not have the unfettered ability to cure a constitutional violation without directly addressing the source of the problem (i.e. getting the procedure correct initially). A legislative session is not an Etch-A-Sketch whereby the legislature may continually and without limitation repeal and reenact a bill until it passes constitutional muster. Assuming that the legislature passed a bill that it later realized was procedurally unconstitutional, it is still necessary to identify the type of constitutional violation to assess the propriety of repeal and reenactment as a cure.

For instance, if the bill violated Article III, Section 23 by containing two subjects, a simple repeal and reenactment passing the new version of the bill with only one of the subjects would be acceptable. Even though single subject challenges are typically characterized as “procedural” in nature, the violation arises in the *substance* of the bill – some of the *contents* of the bill violate the single subject provision. In this situation, the constitutional cure of repeal and reenactment *directly addresses* the source of the constitutional violation by amending the bill to remove the offending provisions. The key to this solution is the fact that the repeal and reenactment can materially remove the source of the constitutional violation.

Contrast that scenario to a bill involving an original purpose violation. As established in the Argument, *supra*, an original purpose violation is a defect in the

process of the legislation. Once the irrelevant amendment is attached to the bill, Article III, Section 21 is violated. No subsequent amendment can retroactively work to abolish the fact that an amendment was already introduced, which, at that moment, changed the bill's original purpose. In this hypothetical a repeal and reenactment would not directly address the source of the constitutional violation – the defect in the process. Instead, it would wallpaper over a hole in the wall and pretend there is no defect. For these reasons, *Amicus* respectfully request that the Court not dismiss Petitioners' claim as moot.

CONCLUSION

The procedural limitations set forth in Article III, Section 21 of the Missouri Constitution are crucial to an open, honest, and engaged democracy. Article III, Section 21 allows legislators and interested citizens to accurately and consistently monitor the progress of legislation by tracking the title of the bill with the expectation that the original purpose will not change significantly. Dragich at 107. The efficiency this creates in bill tracking allows legislators to more effectively represent the desires of their constituents. *Id.* It also prevents legislators from evading constitutional limits on time by substituting the entire contents of a bill already introduced. *Id.* at 116. Finally, the protection against undesirable logrolling has been extensively catalogued. *See, e.g., Missouri Ass'n of Club Executives v. State*, 208 S.W.3d 885 (Mo. banc 2006).

The bill at issue in this case, SB 795, represents a prime example of the type of unconstitutional legislative process that Article III, Section 21 seeks to avoid. A bill that was originally purposed with amending a single statute relating to blasting safety ultimately evolved into a bill addressing dozens of statutes on topics from animals to agriculture. No matter how expansively Respondents attempt to categorize the original purpose of the bill, they still cannot manage to make animal shelter licensing requirements germane to blasting safety.

Finally, the nature of the constitutional violation – one that is embedded in the legislative process – suggests that a mere parliamentary technique such as a repeal and reenactment cannot cure the constitutional deficiency. The suggestion that the General Assembly should have the power and ability to instantaneously cure any prior procedural

constitutional defects through a repeal and reenactment is troublesome. Such a proposition would remove the possibility of constitutional enforcement from its proper domain in the courts and shift it to the control of the legislature, thus destroying the constitutional checks and balances that are the cornerstones of our political society.

Based on the foregoing, *amicus curiae* Excelsior Springs Friends of Animals, Autumn Acres Animal Rescue, and Five Acres Animal Shelter urge this Honorable Court to reverse the trial court's decision and find that SB 795 is unconstitutional.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that pursuant to Rule 84.06(c), this brief: (1) complies with 55.03; (2) complies with the limitations in Rule 84.06(b); and (3) contains 5,060 words, exclusive of the section exempted by Rule 84.06(b), determined using the word count program in Microsoft® Office Word 2011. The font is Times New Roman, double-spacing, 13-point type.

/s/ Michelle L. Monahan
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via the Missouri e-Filing System this 18th day of December, 2012, to:

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